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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/715,108

11/18/2003

Thomas R. Goodwin

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EXAMINER

HAVAN, THU THAO

ART UNIT

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3693

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/715,108	GOODWIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	THU-THAO HAVAN	3693	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **Detailed Action**

#### ***Response to Amendment***

Claims 1-18 are pending. This action is in response to the remarks received February 25, 2008.

#### ***Response to Arguments***

The rejection of claims 1-18 under 35 U.S.C. 103(a) as being unpatentable over Corn et al. (US 2004/0167845) and Hambrecht et. al (US 2004/0039685) is maintained.

Applicant's arguments filed February 25, 2008 have been fully considered but they are not persuasive.

In response to the arguments concerning the previously rejected claims the following comments are made:

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In response to applicant's arguments, the recitation "a computerized system for trading products between at least one buyer and at least one seller" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural

limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Applicant alleges that the prior art made of record fails to teach information of a frequency with which said buyer has accessed said computerized system, information of a frequency with which buyer has viewed said product, and information of whether said buyer has viewed detailed information about said product. The examiner disagrees with applicant's representative since Corn teaches information of a frequency with which said buyer has accessed said computerized system, information of a frequency with which buyer has viewed said product, and information of whether said buyer has viewed detailed information about said product (para. 0006-0007, 0034 and 0041; figs. 10 and 13). He discloses bidder as user in pricing the products. It depends on the frequency of the bidders viewing the products then price of the product is price accordingly. He discloses a minimum price per click for a term in an auction based internet search is determined by creating search volume tiers (SVT). The search volume tiers are created by partitioning search terms based upon the volume of searches on each search term. Price per click tiers are then created by partitioning search terms within each search volume tier based upon a price per click for each search term. Finally, a plurality of liquidity tiers are created by partitioning search terms in each price per click tier by liquidity (e.g. number of bidders for a particular search term). Liquidity can be determined by the number of bidders, the frequency of bid changes, historical trends of the changes, highest maximum bid ever, the offline data regarding the economics of products or services to be offered through this search term. The results of the

partitioning is evaluated to determine a price-per-click increase for one or more particular terms. That is, certain tiers may be considered more likely to include terms which are good candidates for a minimum price and will lead to an increase in revenue. For example, higher value illiquid terms will disproportionately increase revenue after a minimum bid and therefore are better identified first. Individual terms within certain tiers can then be further evaluated to determine a minimum price for that term.

Applicant alleges that the prior art made of record fails to teach a bid likelihood indicator for the buyer based on the buyer's likelihood of entering a bid on a product. The examiner disagrees with applicant's representative since Corn discloses a bid likelihood indicator for the buyer based on the buyer's likelihood of entering a bid on a product (para. 0002, 0006-0007, 0034, and 0041). He discloses the Internet has provided a useful tool for searching for information, products or services. The Internet has also provided a means for enabling the purchase of goods and services, and providing advertisements to a vast population of Internet users. One form of advertising has been to allow vendors to bid for a particular position in a search result, commonly called a paid auction. That is, an advertiser is ranked according to the price per click ("PPC") for each search term. The price per click is the amount the advertiser will pay if a user "clicks through" on the listing. Vendors can be positioned in a search result depending upon their various bids, and can pay the amount of their respective bids in response to a click through by a user. A click through on a listing redirects a user's web browser to the uniform resource locator (URL) associated with the search listing.

With regards to the claims rejected as taught by Corn and Hambrecht, the examiner would like to point out that the references teach the claimed limitations and thus provides adequate support for the claimed limitations. Therefore, the examiner maintains that Corn and Hambrecht taught the claimed limitations.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **1-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Corn et al. (US 2004/0167845) in view of Hambrecht et. al (US 2004/0039685).

Re claims **1** and **15**, Corn teaches detailed product information (para. 0006-0007); buyer activity information for each buyer, comprising: information of a frequency with which said buyer has accessed said computerized system, information of a frequency with which buyer has viewed said product, and information of whether said buyer has viewed detailed information about said product (para. 0034 and 0041); and historical information for each of said buyers, comprising: the number of other products that said buyer has bid on previously, the number of winning bids from said buyer for other products (para. 0007 and 0034); and

a ranking determined for each buyer relating to the likelihood that said buyer will bid on said product, said ranking determined based on said buyer activity information and said buyer historical information (para. 0002 and 0038).

However, Corn does not explicitly teach a computerized system for trading products between at least one buyer and at least one seller. On the other hand, Hambrecht specifically discloses a computerized system for trading products between at least one buyer and at least one seller when he discloses an auction system that allows a person who is interested in the offering can place a bid in the auction through an internet website (para. 0003 and 0020). Auctioning over the Internet is well known element in relation to a computerized system for trading products. Hambrecht discloses a software-driven auction engine ranks bids from highest price to lowest price. Starting with the highest priced bid, the amount of shares requested accumulate. At the price where the cumulative amount of requested shares is equal to the amount of shares the company wishes to sell, the clearing price is set. Everyone who bids above the clearing price receives a full allocation. Thus, it would have been obvious to one of ordinary skill in the art to enable a computerized system for trading products when sellers and buyers are auctioning over the Internet to sell products.

Re claim **2**, Hambrecht teaches at least one document relating to said product, said document being different from said detailed product information (para. 0070 and 00148).

Re claim **3**, Hambrecht teaches buyer activity information for each of said buyers further comprises whether said buyer has accessed said document (para. 0158).

Re claim **4**, Hambrecht teaches buyer activity information for each of said buyers further comprises whether said buyer has downloaded said document (para. 0070).

Re claim **5**, Hambrecht teaches buyer activity information for each of said buyers further comprises whether said buyer has purchased said document (para. 0158).

Re claim **6**, Corn teaches historical information further comprises the buyer's bid for every product that the buyer has bid on, the winning bid for each of the products that the buyer has bid on, and the proximity between the buyer's bid and the winning bid for each product in which the buyer's bid was a losing bid (para. 0034).

Re claim **7**, Corn teaches historical information for each of said buyers further comprises the rank of said buyer's losing bid in relation to the winning bid and all other losing bids from other buyers for each product offering in which the buyer's bid was not the winning bid (para. 0038).

Re claim **8**, Corn teaches buyer activity information for each of said buyers further comprises the amount of time each of said buyers spent viewing said product on said computerized system (fig. 2).

Re claim **9**, Corn teaches ranking comprises placing each of said buyers into a predetermined category based on their likelihood of bidding (figs. 3-4).

Re claims **10** and **16**, Corn teaches ranking comprises a unique ranking of the likelihood of each of said buyers entering a bid for said product (para. 0034 and 0038).

Re claims **11** and **17-18**, Corn teaches ranking comprises a score calculated based on buyer activity information and buyer historical information for each of said buyers (figs. 11-12).



Re claim **12**, Corn teaches qualitative information about the likelihood of a buyer bidding on said product (para. 0034 and 0041).

Re claim **13**, Corn teaches acquisition preference information for each buyer, wherein said ranking is determined based on said buyer activity information, said buyer historical information, and said buyer acquisition preferences (para. 0038).

Re claim **14**, Corn teaches ranking is recalculated whenever the buyer activity information is updated based on additional buyer activity (para. 0034).

### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached on Monday-Friday from 6am-2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct-uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

/Thu Thao Havan/  
Primary Examiner  
Art Unit 3693  
5/15/08